

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ENVIRONMENTAL RESEARCH
CENTER, INC., et al.,

Plaintiffs,

v.

HOTZE HEALTH WELLNESS CENTER
INTERNATIONAL ONE, L.L.C., et al.,

Defendants.

Case No. [20-cv-00370-VC](#)

**ORDER REMANDING CASE,
AWARDING COSTS AND FEES**

Re: Dkt. Nos. 19, 53, 61


This case is remanded to Alameda County Superior Court for the reasons stated at the hearing and in the first remand order. *See Environmental Research Center v. Hotze Health & Wellness Center*, Case No. 3:18-cv-05538-VC, Dkt. No. 36. The second removal was without objective basis, particularly in light of the fact that it was based almost entirely on the same grounds as were rejected the first time around. Accordingly, the plaintiff is awarded \$42,164.30 fees and \$96.95 costs incurred in its district-court response to the second removal. *See* 28 U.S.C. § 1447(c); Dkt. Nos. 61, 61-1. The Court finds these fees and expenses incurred by the firm hired to litigate the case in federal court to be reasonable. But billing for additional work beyond that—from in-house counsel and counsel litigating the state court matter—is duplicative and unreasonable.

The Court also issued an order to show cause why defense counsel and his clients should not be sanctioned under Rule 11 for removing the case in bad faith for the purpose of delaying the litigation in state court. This is a close question. On the one hand, viewing the totality of frivolous filings by the defendants and their counsel (that is, including their filings on appeal),

there is a strong argument that they are acting in bad faith. (There is also, by the way, a serious concern that defense counsel is wasting a tremendous amount of his client's money with these frivolous filings.) On the other hand, after the hearing on the order to show cause, the Court cannot, at this stage, discount the possibility that the second removal (not to mention the other frivolous filings) are a product of bad judgment and overzealousness rather than bad faith. Accordingly, the order to show cause is lifted. Counsel, however, is ordered to provide a copy of this ruling to each of his clients, and must file a declaration within seven days of this order proving that he has done so.

IT IS SO ORDERED.

Dated: May 20, 2020



VINCE CHHABRIA
United States District Judge